

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED FEDERATION OF CHURCHES,
LLC d/b/a THE SATANIC TEMPLE,

Plaintiff,

v.
DAVID ALAN JOHNSON, an individual;
LEAH FISHBAUGH, an individual;
MICKEY MEEHAM, an individual; and
NATHAN SULLIVAN, an individual,

Defendants.

No. 2:20-cv-00509-RAJ

**DECLARATION OF JEREMY
ROLLER IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS FOR LACK OF
SUBJECT MATTER
JURISDICTION**

NOTED ON MOTION CALENDAR:
June 10, 2022

I, Jeremy Roller, declare as follows:

1. I am a member of the law firm Arete Law Group PLLC, counsel for defendants David Johnson, Leah Fishbaugh, Mickey Meehan, and Nathan Sullivan (collectively, “Defendants”) in this matter. I make this declaration upon personal knowledge and, if called to testify, could and would testify competently to the facts set forth herein.

2. Per Paragraph 6 of the Standing Order for Civil Cases Assigned to Judge Richard A. Jones, on May 9, 2022, I conferred with Matthew Kezhaya and Benjamin Justus, counsel for United Federation of Churches, LLC (“TST”), regarding a motion to dismiss the Second Amended Complaint for lack of subject matter jurisdiction. In that telephone

ROLLER DECLARATION IN SUPPORT OF
MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION
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ARÊTE LAW GROUP
1218 THIRD AVE., STE 2100
SEATTLE, WA 98101
O: (206) 428-3250

1 conference I told Mr. Kezhaya that Defendants intended to move to dismiss for lack of subject
 2 matter jurisdiction. Despite the Second Amended Complaint's absence of damages
 3 exceeding \$75,000 on the surviving state law claims, I asked Mr. Kezhaya whether plaintiff
 4 TST claimed damages in excess of \$75,000. Mr. Kezhaya stated that TST could not claim
 5 damages in excess of \$75,000, and instead would rely upon supplemental jurisdiction to
 6 attempt to avoid dismissal of this case from this Court.

7 3. On May 26, 2022, a post purportedly by Mr. Kezhaya, using the username
 8 "stormsmcgee" appeared on a "Reddit" page,
 9 https://www.reddit.com/r/SatanicTemple_Redit/comments/uym4sv/tst_court_update_may_26_2022_this_one_is_by_tsts/. Mr. Kezhaya or someone else appears since to have edited
 10 this post to remove the insulting attacks on Defendants described below. However, I located
 11 the post in a collection of websites archived by a non-profit organization called the Internet
 12 Archive, using the search feature at www.archive.org, known as the "Wayback Machine."
 13 Attached hereto as **Exhibit 1** is a true and correct copy of a portion of the webpage
 14 https://web.archive.org/web/20220527005507/https://www.reddit.com/r/SatanicTemple_Redit/comments/uym4sv/tst_court_update_may_26_2022_this_one_is_by_tsts/ as that site
 15 appeared on the Wayback Machine on June 7, 2022. In that post, Mr. Kezhaya wrote in part:
 16
 17 I will not answer any questions related to the idiots that call themselves
 18 "QueerSatanic," or their idiot-conspiracy theories. My only comment on
 19 that topic is:
 20
 21 I can't believe you morons have spent more than \$80,000 fighting to keep
 22 TST's Facebook page. You are pathetic. You have no concept of civil
 23 liberties, or what is at stake by the ever-encroaching theocracy. Your
 24 lawyer is a gentleman and a scholar. I hope he squeezes every last penny
 25 from you living corpses, and anyone that gives you the time of day.

26 The individuals who Mr. Kezhaya referred to as "the idiots that call themselves
 27 'QueerSatanic,'" "morons," and "living corpses" are Arete Law Group's clients, the
 28 Defendants in this case.¹

¹ Defendants indeed have spent more than \$80,000 defending against TST's claims. This obviously is a significant amount of money, but the expense has been necessary given TST's ROLLER DECLARATION IN SUPPORT OF MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION
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1 4. Later on the same day that Mr. Kezhaya published the post described above
 2 and attached as Exhibit 1, Mr. Kezhaya commented on his own Reddit post. A true and
 3 correct copy of that comment, obtained from the Wayback Machine at webpage
 4 https://web.archive.org/web/20220527211543/https://www.reddit.com/r/SatanicTemple_Reddit/comments/uym4sv/tst_court_update_may_26_2022_this_one_is_by_tsts/ia7nt39/?context=8&depth=9 on June 7, 2022, is attached hereto as **Exhibit 2**. In that comment, Mr.
 5 Kezhaya wrote in part:
 6
 7

8 I wanted some federal statutes to apply because that would maximize TST's
 9 damages, would keep us in Federal court (as opposed to State court), and
 provided the option to collect attorney's fees for having to litigate this.

10 5. The next day, May 27, 2022, Mr. Kezhaya commented on his own Reddit post
 11 once again. A true and correct copy of that comment, obtained from the webpage
 12 https://www.reddit.com/r/SatanicTemple_Reddit/comments/uym4sv/tst_court_update_may_26_2022_this_one_is_by_tsts/ia76rxj/ on June 7, 2022, is attached hereto as **Exhibit 3**. In
 13 that comment, Mr. Kezhaya wrote in part:
 14

15 All three surviving claims are questions of Washington State law, not
 16 Federal law. Defendants have moved for dismissal from Federal Court
 because, they argue, TST cannot show that there is an "amount in
 17 controversy" of at least \$75,000 (which is required for Federal jurisdiction).
 I have announced resistance to the motion. I need to come up with a credible
 18 justification that it is not-impossible [sic] a jury could legally award at least
 \$75,000 in damages.

19 Since punitive damages are on the table, that really means I really only need
 20 to justify \$12,500 in out-of-pocket damages. Punitive damages can be up
 to 6x compensatory damages (out-of-pocket losses). I've been mired in
 21 Belle Plaine since they filed the motion, so I haven't yet had an opportunity
 to evaluate the damages.

22
 23
 24 multiple amended complaints, which have contained numerous, disparate claims, most of
 25 which have been dismissed by this Court. Indeed, Defendants' expenses would be far greater
 if Arete Law Group were charging my typical hourly rate, which currently is in the \$425-\$450 range, as opposed to a discounted rate of \$325 per hour—\$60 per hour less than a \$385
 26 hourly rate that Judge Robart found "reasonable and sensible" more than eight years ago. *See Getty Images (U.S.), Inc. v. Virtual Clinics*, No. C13-0626-JLR, 2014 WL 1744522, at *3
 (W.D. Wash., April 29, 2014).

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6. Attached hereto as **Exhibit 4** is a true and correct copy of a June 6, 2022 email exchange between Mr. Kezhaya and me.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed in Seattle, Washington, on June 10, 2022.

/s/ Jeremy Roller
Jeremy Roller

ROLLER DECLARATION IN SUPPORT OF
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CERTIFICATE OF SERVICE

I certify that on this date I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, thereby sending a notification of such filing to the following parties:

Benjamin Justus
Lybeck Pedreira & Justus, PLLC
Chase Bank Building
7900 SE 28th Street, Fifth Floor
Mercer Island, WA 98040
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Matthew A. Kezhaya
Kezhaya Law PLC
1202 NE McClain Rd
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(479) 431-6112
matt@kezhaya.law

DATED: June 10, 2022, at Seattle, Washington.

/s/ Janet Fischer

Janet Fischer

Paralegal

ROLLER DECLARATION IN SUPPORT OF
MOTION TO DISMISS FOR LACK OF
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ARÈTE LAW GROUP
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EXHIBIT 1

Posted by 3 minutes ago

TST Court Update! (May 26, 2022) -- this one is by TST's lawyer

Question / Discussion

Hello everyone! Thank you for your interest in TST's legal efforts. I'm Matt Kezhaya, TST's general counsel. I am recently the subject of a Federal Judge's ire, which is actually pretty normal in my law practice (TST cases and otherwise).

So I've been made aware that Mr. "Chip on my shoulder after Matt bailed out on a podcast taping because I misled him into believing I'm a TST supporter" Hail Satan Podcast guy is crowing about a sanctions order against me. I felt the community was entitled to know the other side of the story.

I'll start with the bottom line-upfront. Yes, I am ordered to pay about \$17,000 of my own personal money because I have been a very naughty boy, or so the Judge says. I have a different take, of course. Basically this sanctions order is the product of a bait-and-switch scheme. TST was told that some of its claims were legally insufficient, and were to be dismissed from an ongoing lawsuit ("TST 1"). But, TST was assured that it was entitled to fix the claims and refile them. I asked the Court if I could fix the claims in the ongoing lawsuit ("TST 1") and a magistrate said "no." A magistrate is not allowed to preclude other lawsuits, and TST was told it could refile the dismissed claims, so I refiled the dismissed claims as "TST 2." The District Judge later affirmed the magistrate's then-six-month-old decision to tell me "no" and, since I already filed TST 2, TST 2 was to be dismissed without leave to refile and I owe the City's lawyers \$17,000 for them having to get TST 2 dismissed. Again, bait-and-switch: "you can refile" turned into "how dare you refile."

That's the short version. If you're interested in the case, read on. If not, I'll be around to answer questions about TST's legal efforts. No promises on answering every question. If I think your question is harmful to the organization I'll probably ignore it, unless I feel like fucking with you. I'm TST's cheerleader, so please note that I am maximum biased in TST's favor. **I will not answer any questions related to the idiots that call themselves "QueerSatanic," or their idiot-conspiracy theories.** My only comment on that topic is:

I can't believe you morons have spent more than \$80,000 fighting to keep TST's Facebook page. You are pathetic. You have no concept of civil liberties, or what is at stake by the ever-encroaching theocracy. Your lawyer is gentleman and a scholar. I hope he squeezes every last penny from you living corpses, and anyone that gives you the time of day.

Not very "First Tenet," or whatever, but you can't teach an old war dog new tricks.

On with Belle Plaine.

This case arose from TST's efforts to get equal treatment to a "limited public forum" (a place where a government opens its private property for the purpose of accommodating expressive activity about a particular topic), which the City of Belle Plaine opened, "basically so the cross could stay in the Park" (that's a verbatim quote from the mayor, follow [this link](#) to see him say it for yourself, it's at 1:15 - 1:20). The full meeting can be found [here](#). The primary purpose of that meeting was to hear out the local Catholic priest's religious objection to the City granting TST equal access to the forum.

Rewind about four months, and the City Council had a meeting to hear out a proposal to open the Park to private monuments. The full meeting can be found [here](#). The proposal was prepared by the ADF (a Christian legal advocacy group) and presented by the Veterans Group, who were proponents of putting this Christian monument in the park.

At that meeting, Councilor Stier, who would later become the tie-breaking vote asks for assurances there would be no competitor monuments by an Atheist or Satanic group:

I've seen monuments that are going up in Detroit right now that

have [a] Satanic meaning to them. So, how can we up here, be assured that, number one, these monuments won't go into that Park?

The proponent of the proposal assured him that, indeed, the proposal is designed to allow in their good Christian monument to the contemplated exclusion of dirty Atheists or Satanists:

There is [sic] specific criteria . . . [that] the monument would be consistently seen in other memorial parks. A Satanic statue is not consistently seen in other memorial parks. Your foxhole, for an atheist foxhole thing, is not consistently seen in other memorial parks.

The particularly astute among you might think "That's super illegal, they can't do that!" And you are correct. The City Attorney tells them as much:

[T]his is illustrating my concern . . . The concern is that if the intent is, or the effect of the criteria is, to eliminate certain messages, that is constitutionally suspect—which is putting it nicely. That is exactly what is not allowed: [which] is for the government to establish rules which prevent certain religions from speaking.

You can hear the above exchange for yourself by following [this link](#).

Councilor Stier was also concerned about the FFRF having a monument, but the FFRF never did join in on the fun. They correctly figured that once we got involved, the Cross would go away.

The City attorney was very much against the proposal because, obviously, TST would be demanding equal access to this forum. We told them as much. Ultimately, the final policy was clear that everyone is allowed in, but your display would have to honor Belle Plaine veterans.

So, TST did what it is famous for and created a display that honors Belle Plaine veterans. It's beautiful. The artist even donated \$40,000 worth of services, just because he supports the cause. But, once TST announced it was ready for some of that constitutionally-guaranteed equal access to the "free speech zone," the City delayed installation efforts until they closed the forum.

So, TST did what it is famous for and sued the government for a whole lot of constitutional violations. The problem is that this was before my involvement with TST, so the complaint not up to the task of overcoming judicial bias. Follow [this link](#) to see their complaint. Compare mine. See, TST's original lawyers made the fatal error of thinking that TST actually receives its rightful "equal treatment under the law." No, I'm afraid that judges are willfully ignorant about basic concepts like "recuse if you feel like you are biased" once it comes time to dogpile onto an oppressed minority religion.

The Judge hand-waved some basic notions like "free speech" and "Satanists have just as much a right as Christians to participate in the public square," and dismissed all but one claim for various reasons. But we were told that we could refile (that's what "Dismissed without prejudice" means).

Rather than file a whole other lawsuit, I figured "hey let's just have one lawsuit, that's twice as efficient for everyone!" Boy was I wrong. Basically, the magistrate chastised me because I waited two months to get started on discovery, on a case that had been running for 1.5 years. Fuck me for having other cases, I guess. And since I was "dilatory," I could take TST's dismissed claims and I could fuck all the way off.

So that put me in a bit of a pickle. TST needed a dismissal "with prejudice" or I can't appeal. But the Magistrate said I'm not allowed to bring those claims into TST 1. But I was told I could refile. And Magistrates lack the power to preclude claims. And, if I appealed the Magistrate's order, the District Judge was almost certain to affirm the Magistrate, which *might* preclude the claims (District Judges do have the power to preclude claims.)

So, I said "fuck the Magistrate, and the police while you're at it" and filed the claims (which I really can't overstate had been "dismissed without prejudice") as a separate lawsuit. I was entitled to file them all along, so if the Magistrate wants to be inefficient, that sounds like "not-me" problem. Boy was I wrong.

I guess the moral of the story is, if a judge tells you that you are entitled to refile some dismissed claims as a separate lawsuit, the judiciary can take its "strong preference for judicial economy" and shove it all the way up their collective asses. Better to ask for forgiveness because, if you ask for permission first, you risk paying your chickenshit adversary \$17,000. God forbid the insurance company take a loss.

The underlying orders of dismissal are on appeal. If you want to hear me say all the above in a professional tone and with all the legal authority to back up why I'm right about everything and the District Judge is a big dum-dum, the briefing is worth a read.

- Here is my opening brief.
- Here is the appendix (which has all the important record entries)
 - TST 1 and
 - TST 2; and
- Here is the addendum (which has all the orders at issue).
- Here is my reply, which explains why the City's response to my opening brief is full of shit.

You'll want the appendices and addendum handy to cite-check my claims about what the record says.

I didn't share the filemarked copies because, for some ungodly reason, efilings removes bookmarks and I think bookmarks are incredibly helpful.

You can get their response from PACER (case no. **21-3079**), but it's not worth reading because it is the legal equivalent of "nuh uh," except they didn't even respond to most of my points. I would share my copy, but it has all of my super-secret notes and highlighting on it.

I will appeal the sanctions order. And I am asking for reassignment if I win either appeal.

AMA re: TST legal stuff.

1 Comment

100% Upvoted

EXHIBIT 2

TST Court Update! (May 26, 2022) -- this one is by TST's lawyer

[Question / Discussion](#)

(self.SatanicTemple_Reddit)

submitted 20 hours ago * by stormsmcgee  

31 comments share save hide report

sorted by: **best****Want to add to the discussion?**[Post a comment!](#)[CREATE AN ACCOUNT](#)

you are viewing a single comment's thread.

[view the rest of the comments →](#)[-] **SexDrugsRockRollYay** 13 points 20 hours ago

1. Do you feel that the losses in TST's cases thus far have been based on legitimate legal findings, or simply because of some unfair/illegal treatment from judges?
2. You mention some work done by previous lawyers. In your professional opinion, would the end results have been different if you were at the helm?
3. Why is the QS case so taboo to speak about?

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Do you feel that the losses in TST's cases thus far have been based on legitimate legal findings, or simply because of some unfair/illegal treatment from judges?

That's a hefty question. I think it's a combination of the federal judiciary being overtaken by the right-wing, in reaction to the ~1960s Warren Court, which has resulted in an aversion to civil rights generally, all on the one hand; and a general aversion to the name "Satan" on the other. A lot of what TST goes through is pretty well known everywhere. Particularly in the criminal "justice" system. But, TST is held to unfair standards. But it wouldn't be Satanism without "Satan" and "American Humanists" are disrespected in the courts similarly. Over time, TST will gain more popularity, will become accepted as normal, and will start getting equal treatment under the law. Everything boils down to the system's perception of clout.

You mention some work done by previous lawyers. In your professional opinion, would the end results have been different if you were at the helm?

Frankly, no, but only because TST 1 was filed before the *Scottsdale* loss. There, two councilors wrote literal op-eds in the local newspaper that they intended to exclude TST from the "all-comer" legislative prayer policy. Less than two months later, TST was excluded. The Judge just couldn't connect the dots because they blamed the City Manager, who answers to both of those politicians, but who did *not* publicly state that he is a bigot. Because he denied under oath that he was a bigot, that was good enough to justifying ruling against TST. And because a federal judge gave the City Manager the ol' "judicial certificate of believability," the appellate court was content to say "it's a fact issue, nothing we can do for you."

After *Scottsdale*, I attach every shred of evidence I can get from the public record that the defendant broke the law. TST is just held to egregious standards that another religion (cough, Christian Right) are just not.

| Why is the QS case so taboo to speak about?

TST is in litigation with QS. You don't talk about a lawsuit while it's ongoing. Everything you say in the public record *will* be used against you. The rules carve out, whole-cloth, the bar against hearsay just so a party can use an adversary's out-of-court statements against them. Thus, we don't talk about QS.

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[–] **Damaged142** Hail Satan! 2 points 18 hours ago

I wish you could speak about QS because they have pointed me to some of the court documents as well as a very well put together summary of the litigation so far... and while trying to not come across as offensive, I can't help but feel TSTs case/evidence as well as the overall approach seems... very poorly put together. The term, throwing spaghetti at the wall and see what sticks has been thrown around and tbh that's what it seems like. At least to me, in this one particular case, as someone with no legal experience lol

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[–] **stormsmcgee** [S] 9 points 18 hours ago

At this stage of proceedings, it is very normal for the parties to go back and forth about what issues will be litigated. Plaintiffs always want to have as many options available because who is to say how the facts will shake out. Defendants always want to constrain the plaintiff's choices for the same reason. Litigation is zero-sum. If Plaintiff wants something, that is generally bad for Defendant. And vice versa.

At the end of the day, TST is suing QS because QS stole TST's facebook page. The people we are suing publicly bragged that they "stole" the page. I wanted some federal statutes to apply because that would maximize TST's damages, would keep us in Federal court (as opposed to State court), and provided the option to collect attorney's fees for having to litigate this. They have a diametrically opposite incentive. The Court ultimately agreed with them as to the Federal claims. The state claims survive. Maybe I overcomplicated things by bringing up the Federal issues, or maybe the Judge decided wrong. That will be for the Ninth Circuit to decide.

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[–] **Krillpocalypse** 2 points 8 hours ago

If you're still willing to answer a question about this topic, I was hoping you could clarify something for me. I occasionally check the QS case on courtlistener, and it seems like earlier this month the case was dismissed in full. I admit that I am having a bit of trouble understanding all the legalese (even though I work tangentially with lawyers). Would you be willing to clarify what the status of the case is? Is it ongoing, is it dismissed with chance to appeal, is it a little of column A and a little of column B, etc.?

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[–] **stormsmcgee** [S] 6 points 6 hours ago

The case was dismissed in part, not in full. The surviving claims are tortious interference (defendants wrongfully interfered with the business relationship between TST and Facebook), trespass to chattels (defendants wrongfully interfered with TST's rightful

surveillance camera. Observe our Update (May 26, 2022) – this was by TST's lawyer possession of the Facebook page), and conversion (defendants wrongfully deprived TST of the Facebook page). The difference between trespass to chattels and conversion is one of degree.

All three surviving claims are questions of Washington State law, not Federal law. Defendants have moved for dismissal from Federal Court because, they argue, TST cannot show that there is an "amount in controversy" of at least \$75,000 (which is required for Federal jurisdiction). I have announced resistance to the motion. I need to come up with a credible justification that it is not-impossible a jury could legally award at least \$75,000 in damages.

Since punitive damages are on the table, that really means I really only need to justify \$12,500 in out-of-pocket damages. Punitive damages can be up to 6x compensatory damages (out-of-pocket losses). I've been mired in Belle Plaine since they filed the motion, so I haven't yet had an opportunity to evaluate the damages.

Alternatively, I have seen case law that says a Federal court has discretion to exercise jurisdiction over state law claims that arise from the same facts as a dismissed federal question. That will probably be part of the response as well.

My response is due at 11:59 pm, Pacific Time, on June 6.

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[–] **Krillpocalypse** 3 points 4 hours ago

Thank you for taking the time to explain this to me! I try to read through the court documents when I can, but there's a lot and it's hard to follow sometimes when you're a non-lawyer.

Since this post seems to be in response to the post yesterday, I'll assume you looked at the older post, in which case you may have seen where I said I was frustrated because I felt like you keep "shitting the bed", and I mentioned you by name since you're lead counsel. My frustrations are with when cases seem to go south due to more administrative or clerical issues, such as the Belle Plain one with the multiple filing issues and with the Boston convocation then-mayoral-candidate deposition situation where the judge mentioned that part of the reason for dismissing the case was due to TST's counsel being overly aggressive. Obviously I don't know what's going on with every aspect of the court cases; I can't even understand everything I'm reading when I try. I just wanted to apologize to you about that - I do appreciate the work you're doing, and I do think that the cases being brought forth are important.

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[–] **stormsmcgee** [S] 1 point 4 hours ago

More than happy to. I consider it part of my role as "TST's lawyer" to explain to TST's membership (not just TST's decisionmakers) what I am doing, why I am doing it, and how it affects the organization.

Re: ¶ 2, thank you for the kind words. Please know that I only know this stuff because I eat, sleep, and breathe the practice of law. Non-lawyers aren't expected to know all of the ins-and-outs because that's what lawyers are for. But be wary that there are people out there who will prey on ignorance. Sometimes they will have a personal or financial interest in distorting the truth, and sometimes they innocently misunderstand or misapply the truth because of personal or financial

submitted by [comment_Ob11](#) on [May 26, 2022](#) – this post is by [Ob11's lawyer](#)

biases. I commend you for peering behind fluff, assessing the evidence for yourself, and then coming to a judgment based on logic and reason. And I double-command you for being open to reconsidering a prior judgment based on new information.

Have you considered becoming a judge? We sure could use more like you.

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EXHIBIT 3

Posted by u/stormsmcgee 12 days ago   

TST Court Update! (May 26, 2022) -- this one is by TST's lawyer

Question / Discussion

34 Comments

Sort By: Best

[View all comments](#)

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stormsmcgee **OP** · 12 days ago

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[Reply](#) [Share](#)



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[Reply](#) [Share](#)

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Have you considered becoming a judge? We sure could use more like you.

EXHIBIT 4

Jeremy Roller

From: Matthew A. Kezhaya <matt@kezhaya.law>
Sent: Monday, June 6, 2022 3:09 PM
To: Jeremy Roller
Cc: Benjamin Justus; Sonia A. Kezhaya
Subject: Re: TST v. Johnson -- request for stipulation to amend the complaint

Are you requesting that we withdraw the motion in light of your intention to attempt to amend (again)? Or are you going to respond and cross-move to amend?

I asked about the former but announced that we will do the latter if your clients declined to so stipulate. Either way, the 12(b)(1) motion gets mooted. My purpose is to see if we can agree on alleviating the Court from having to address a moot motion.

Whatever the procedural step you plan to take, my clients will not consent to yet another amendment of your client(s)'s complaint. TST, Inc. / UFC has had more than two years to determine whether TST, Inc. should be a plaintiff.

Unless the statute of limitations have passed or the scheduling order says otherwise, I fail to see any timeliness issues. Your clients opted to litigate the motions to dismiss in piecemeal fashion. That is their right under the rules, but they don't get to complain that this case is taking too long while also fighting tooth and nail about everything they can. We are just responding to your clients' objections as they come.

More importantly, nothing about the amendment as you've described it cures the Court's lack of subject matter jurisdiction / inappropriateness of exercising supplemental jurisdiction. Indeed, in our May 9, 2022 pre-motion conference I specifically asked you whether your client could credibly allege over \$75,000 in damages. Your response was an unequivocal no.

I refrained from addressing the 12(b)(1) motion on the merits in my email because I didn't want to provoke a defensive reaction. As we substantiate in our forthcoming response, it is not-impossible your clients will be ordered to pay quite a bit more than \$75,000 when we finally get to trial on this matter.

As for our meet-and-confer conversation, I remember it differently. I recall saying that I didn't think I had a credible basis to believe there was a \$75,000 amount in controversy at that time. Since then, you filed the 12(b)(1) motion which gave me occasion to research all of the compensable categories of harm your clients have caused mine. In the course of that, I found that your clients owe TST, Inc. money as well as UFC, LLC.

In closing, I can't help but express surprise that your clients object to TST, Inc. being involved in this matter. One of their crowd pleasing complaints is to loudly state confusion about TST consisting of more than one legal entity, as if there is something untoward about that. This is an opportunity to substantiate their implicit claim with a credible legal argument.

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On Mon, Jun 6, 2022 at 3:25 PM Jeremy Roller <jroller@aretelaw.com> wrote:

Matt,

Thanks for your email.

I am a little confused as to what you are asking and why you are asking it now. Are you requesting that we withdraw the motion in light of your intention to attempt to amend (again)? Or are you going to respond and cross-move to amend? Please explain.

Whatever the procedural step you plan to take, my clients will not consent to yet another amendment of your client(s)'s complaint. TST, Inc. / UFC has had more than two years to determine whether TST, Inc. should be a plaintiff. More importantly, nothing about the amendment as you've described it cures the Court's lack of subject matter jurisdiction / inappropriateness of exercising supplemental jurisdiction. Indeed, in our May 9, 2022 pre-motion conference I specifically asked you whether your client could credibly allege over \$75,000 in damages. Your response was an unequivocal no.

Your clients' quest to unjustifiably punish my clients has gone on too long, and in any event, belongs in State Court. If you want to add TST, Inc. to this morass, the appropriate approach is to consent to dismissal from federal court and re-file the surviving state law claims in King County Superior Court.

Thank you.

Jeremy

Jeremy Roller



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From: Matthew A. Kezhaya <matt@kezhaya.law>
Sent: Monday, June 6, 2022 11:21 AM
To: Jeremy Roller <jroller@aretelaw.com>
Cc: Benjamin Justus <ben@lpjustus.com>; Sonia A. Kezhaya <sonia@kezhaya.law>
Subject: TST v. Johnson -- request for stipulation to amend the complaint

Hey Jeremy,

In the course of researching and responding to your clients' Rule 12(b)(1) motion, I think The Satanic Temple, Inc. is a necessary party. That requires some clarification of nomenclature, which I address below. In short, "TST, Inc." is the non-profit entity for TST, and that entity has suffered reputational harm and consequential damages arising out of the facts leading to suit (the "cause of action" as used in res judicata jurisprudence).

To clarify the nomenclature, "The Satanic Temple," or "TST," is the name of a particular sect of Satanism which is given legal structure by a constellation of legal entities. Since there has been no need to refer to our current plaintiff ("UFC, LLC") as anything other than "TST," I have been using that name because that is the naming convention people use in this subculture.

UFC, LLC (our current plaintiff) is the original entity which developed the IP rights to the name "The Satanic Temple." That entity has always been for-profit, arising out of a now-defunct tenet that churches should pay taxes. In 2014, the Chapter page was created. SAC Exhibit 2. The Chapter page is definitely property of UFC, LLC.

Sometime before 2017, TST's leadership (i.e., the religion's leadership) resolved that voluntarily paying taxes was no longer in TST's best interests. In late-2017, that led to TST forming a corporation called "The Satanic Temple" (no "Inc.") In 2019, the articles of incorporation were amended to name the entity "The Satanic Temple, Inc." In late-2018, the Allies page was created. The Allies page may be property of TST, Inc. or it may be property of UFC, LLC.

All of this comes to a head because, in light of a detailed analysis of all of TST's compensable damages (i.e., the *religion's* damages), I found that the complaint glosses over the distinction between "TST" (the religion), "UFC" (the entity that holds the trademark rights to the name "The Satanic Temple"), and "TST, Inc." (the non-profit entity).

I think the complaint needs to clarify the distinction because it addresses the asserted property wrongs (e.g., did Defendants steal the Allies page from the LLC, or the Inc., or both?); and damages therefore (did Defendants foreseeably and intentionally cause reputational harm to the Inc. in addition to the LLC?).

Somewhat relatedly, there is a basis to seek the improved value of the Allies page but the restatement is coy about whether that improved value is because of a conversion/trespass claim by analogy to a breach of fiduciary duty; or whether that improved value requires pleading a breach of fiduciary duty claim. Restatement (Second) of Torts § 927c cmt. *j* (1971); see also Restatement (Second) of Torts § 874, cmt. *a* and *c* (1979). The distinction is probably irrelevant because the same harm is compensable as improvements made to property owned by another. *Id.*, cmt. *f*. But I'd rather include the breach of fiduciary duty and be safe.

The underlying theory to add a breach of fiduciary duty claim is that Defendants may not lawfully compete with TST on the subject of their agency. Restatement (Second) of Agency §§ 387 and 393 (1958). Defendants were entrusted with knowledge about the Allies page as part of the agency. SAC ¶¶ 17, 36. They breached their duty of loyalty by interfering with TST's use of the Allies page, regardless whether they had the power to access the page after their termination from the advisory council. There are probably other breaches of fiduciary duties I may find while detailing out the complaint, as well.

Based on the foregoing, TST desires the Defendants' stipulation to amend the complaint. One claim is proposed to be added: a breach of fiduciary duty claim. One plaintiff is proposed to be added: The Satanic Temple, Inc., who has suffered reputational harm and consequential damages arising out of this cause of action. While I'm in there, I might as well clean up the pleadings as to diversity jurisdiction and get rid of all the extraneous counts which have been dismissed.

Our response to the 12(b)(1) motion is due today so I'd like a stipulation by end of business. I know this is late notice, but this issue didn't occur to me until I called you about an hour ago. If I don't hear from you before end of day, I'll have a note at the bottom of the response summarizing the above and indicating that Ben and I gave you the maximum amount of notice we could before filing a response which requests leave to amend. If I hear back from you with a "no," I'll note your objection in the same note.

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